

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE  
COMPANY, JOHN HANCOCK  
VARIABLE LIFE INSURANCE  
COMPANY and MANULIFE  
INSURANCE COMPANY,

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendant.

CIVIL ACTION NO. 05-11150-DPW

**ABBOTT'S CORRECTED DEPOSITION DESIGNATIONS AND  
COUNTER DESIGNATIONS FOR THOMAS LYONS**

Defendant Abbott Laboratories (“Abbott”) respectfully submits the attached deposition designations and counter-designations for the July 20, 2004 deposition of Thomas Lyons, Controller, GPRD.

Dated: February 21, 2008

Respectfully submitted,

ABBOTT LABORATORIES

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Eric J. Lorenzini

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**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 21, 2008.

Date: February 21, 2008.

/s/ Ozge Guzelsu

## Thomas Lyons Deposition Designations

Depo Date	Witness	Hancock Designation	Abbott Counter Designation	Abbott Designation	Deposition Exhibit	Plaintiff Exhibit	Defendant Exhibit
07/20/04	Lyons, Thomas			3:19-3:20			
07/20/04	Lyons, Thomas			4:3-4:8			
07/20/04	Lyons, Thomas			4:12-4:14			
07/20/04	Lyons, Thomas	8:8-8:17					
07/20/04	Lyons, Thomas			8:18-8:22			
07/20/04	Lyons, Thomas			9:6-9:10			
07/20/04	Lyons, Thomas	156:13-158:2	153:15-156:12				

## **Color Key to Deposition Designations**

**Designation by Plaintiffs**

**Counter Designation by Defendants**

**Designation by Defendants**

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS  
3 JOHN HANCOCK LIFE INSURANCE )  
4 COMPANY, JOHN HANCOCK VARIABLE)  
5 LIFE INSURANCE COMPANY, and )  
6 INVESTORS PARTNER LIFE )  
7 INSURANCE COMPANY, )  
8 Plaintiffs, ) Civil Action  
9 vs. )No. 03 CV 12501-DPW  
10 ABBOTT LABORATORIES, )  
11 Defendant. )  
12

13 The deposition of THOMAS LYONS, called  
14 for examination, taken pursuant to the Federal  
15 Rules of Civil Procedure of the United States  
16 District Courts pertaining to the taking of  
17 depositions, taken before BARBARA A. DeMICCO, a  
18 Notary Public within and for the County of Lake,  
19 State of Illinois, and a Certified Shorthand  
20 Reporter, C.S.R. No. 84-2946, of said state, at  
21 255 East Illinois Road, Lake Forest, Illinois, on  
22 the 20th day of July, A.D. 2004, at 9:30 a.m.

23  
24 Job No:943

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1 MR. DAVIS: Swear the witness, please.

2 (WHEREUPON, the witness was duly  
3 sworn.)

4 THOMAS LYONS,

5 called as a witness herein, having been first duly  
6 sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MR. DAVIS:

9 Q. Good morning. Would you state your  
10 name, please, for the record?

11 A. Thomas Lyons.

12 Q. Where do you live, Mr. Lyons?

13 A. In Barrington, Illinois.

14 Q. Do you have a street address?

15 A. 28587 West Heritage Oak Road.

16 Q. Do you have any plans to move from that  
17 location in the near future?

18 A. No.

19 Q. Where are you employed, sir?

20 A. Abbott Laboratories.

21 Q. What position do you hold there?

22 A. Currently I am vice president of  
23 finance for the Hospira Transition Team.

24 Q. Have you changed positions at Abbott in

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1 the last year?

2 A. Yes.

3 Q. What position did you hold previous to

4 the position that you currently hold?

5 A. I was director of finance for the

6 transition team.

7 Q. How about before that?

8 A. Controller for GPRD.

9 Q. When did you move from your position as

10 controller for GPRD?

11 A. Towards the end of August of '03.

12 Q. What is GPRD?

13 A. Global Pharmaceutical R&D, Research and

14 Development Division.

15 Q. Mr. Lyons, again, my name is Brian

16 Davis. I'm an attorney for John Hancock. We are

17 the plaintiffs in this action. I'm going to ask

18 you a series of questions here today. If at any

19 point in time you don't understand any of my

20 questions, please just say so and I will try to

21 give you a clearer question. Do you understand

22 that?

23 A. Yes.

24 Q. If you have answer my question, I'm

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1 A. International division.

2 Q. In finance position?

3 A. In finance. I was area finance

4 director for Europe, our European operations.

5 Q. That position had you stationed here in

6 the United States?

7 A. Yes.

8 Q. You said that you became a part of GPRD

9 five or six months after it was formed.

10 Specifically what month of what year was that?

11 A. I want to say mid-May of 2001.

12 Q. What position did you take within GPRD

13 at that time?

14 A. The controller's position.

15 Q. Had someone held that position within

16 GPRD before you?

17 A. Yes.

18 Q. Who?

19 A. Prior was Bob Funk. He held that from

20 approximately January until I took over, January

21 of that year.

22 Prior to that it was Steve Cohen.

23 Q. Where does Mr. Cohen work today, if you

24 know?

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1 A. I don't know.

2 Q. When is the last time you spoke with  
3 him?

4 A. I don't think I ever spoke with him. I  
5 wouldn't know him if I saw him.

6 Q. What are the duties and  
7 responsibilities of the controller of GPRD?

8 A. Financial in nature obviously,  
9 reporting the actual results, doing plans and  
10 updates, responsible for internal controls.

11 Q. When you were controller of GPRD, to  
12 whom did you report?

13 A. Initially it was on a temporary basis  
14 to Jeff Leiden, and then once the position was  
15 filled I reported to a person called Brian Ford.

16 Q. When you said the position was filled,  
17 what position are you referring to?

18 A. It was the -- I might not get it  
19 perfectly correct, but he was the division vice  
20 president for R&D operations.

21 Q. When you say --

22 A. The position was opened when I took the  
23 job.

24 Q. So the position of controller was open

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1 Q. To the right there is a notation, "Four  
2 Year Spend," and then there are three boxes  
3 underneath that with different labels; do you see  
4 that?

5 A. Yes.

6 Q. Do you understand the difference  
7 between the different scenarios that are noted  
8 here?

9 MR. DESIDERI: I'm going to object to lack of  
10 foundation.

11 BY THE WITNESS:

12 A. I can't say that I could because I  
13 didn't prepare the document, no.

14 BY MR. DAVIS:

15 Q. Have you ever heard within Abbott a  
16 description or a reference to an expected success  
17 scenario?

18 A. Yes.

19 Q. What is an expected success scenario?

20 A. My understanding of it -- I didn't work  
21 directly with it. My understanding is that it --  
22 it's primarily used to determine expected value  
23 taking into consideration probabilities of success  
24 of a variety of factors around a given compound.

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1 Q. Is it fair to say that the expected  
2 success scenario is one that reflects some  
3 realization on Abbott's part that perhaps not all  
4 compounds will, in fact, proceed to the next level  
5 or require the full amount of planned spending?

6 MR. DESIDERI: I'll object to lack of  
7 foundation.

8 BY THE WITNESS:

9 A. I don't -- I guess I would disagree  
10 with one of your words, "realization."

11 BY MR. DAVIS:

12 Q. How do you -- how is the use of that  
13 word inappropriate?

14 MR. DESIDERI: Same objection.

15 BY THE WITNESS:

16 A. Can you rephrase the question then?

17 BY MR. DAVIS:

18 Q. Sure. Is it fair to say that the  
19 expected success scenario is one that takes into  
20 account the likelihood that some compounds will  
21 not proceed to the next level or will not require  
22 the full amount of planned spending?

23 MR. DESIDERI: I'm going to object on lack of  
24 foundation.

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1 Are you asking him based on his general  
2 understanding of the phrase or based on how it is  
3 used in the document which has been marked as  
4 Lyons Deposition Exhibit No. 10?

5 MR. DAVIS: I'm asking how it is used within  
6 Abbott, which he has testified he has heard  
7 reference to it within Abbott.

8 MR. DESIDERI: He says he has heard it.

9 MR. DAVIS: So I'm getting at his  
10 understanding of the term as it is used within  
11 Abbott.

12 MR. DESIDERI: Based on what he has heard?  
13 Is that right?

14 MR. DAVIS: I think I have said it already.

15 BY THE WITNESS:

16 A. What I am familiar with is expected  
17 value really doesn't involve spending per say,  
18 direct -- specifically spending per say. What I  
19 am most familiar with is that it takes a profit  
20 and loss statement going out into future years,  
21 applies certain probabilities of success as a  
22 product moves through stages as well as  
23 incorporating competitor factors once it is  
24 launched, discounts it all the way back to current

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1 present value. And what I'm familiar with is that  
2 result is a productivity index.

3 BY MR. DAVIS:

4 Q. So you have seen, for example, expected  
5 success scenarios in the context of projecting  
6 income from compounds; is that right?

7 A. The term I'm familiar with is expected  
8 value which translates a profit and loss scenario  
9 incorporating sales, cost of sales, anticipated  
10 SG&A spending, R&D spending, and probability of  
11 success throughout a long period of time into a  
12 factor, index factor.

13 Q. While you were controller at GPRD, did  
14 you ever see within any Abbott documents any  
15 differentiation between planned product  
16 development spending and expected product  
17 development spending?

18 A. Yes.

19 Q. What was the difference between those  
20 two things, as best you recall?

21 A. I'm not -- I did not come up with  
22 that. I can tell you what I think. It would be  
23 kind of conjecture.

24 MR. DESIDERI: Don't speculate.

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1 BY MR. DAVIS:

2 Q. Did you have an understanding at the  
3 time that you were controller of the difference  
4 between those two things?

5 A. I thought I did.

6 Q. What understanding did you have as the  
7 controller of Abbott's GPRD with respect to the  
8 difference between those two things?

9 A. For that specific line item, spending,  
10 if I'm correct, you start with absolute or nominal  
11 projections, mathematically applies given the  
12 assumed probabilities of success, and, therefore,  
13 discounts that nominal down to an expected value.

14 Q. Well --

15 A. That's fairly simplistic.

16 Q. While you were controller of GPRD, what  
17 did you understand to be nominal spending?

18 A. Just absolute, absolute spending.  
19 Projection.

20 Q. I believe you have already testified  
21 that expected spending would take nominal spending  
22 and discount it by some estimated success ratio;  
23 is that right?

24 A. That's my understanding. Again, I did

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1 not -- I wasn't intimately involved in this  
2 process.

3 Q. Would you take a look at the page  
4 that's numbered 000069 of Exhibit 10?

5 Have you seen that document before?

6 A. No.

7 Again, I haven't -- I'm sorry. I may  
8 have, yes.

9 Q. This document is titled "Abbott  
10 Laboratories PPD R&D Alternative Financing  
11 Analysis John Hancock Funding Scenarios." Do you  
12 see that?

13 A. Yes.

14 Q. What's PPD?

15 A. PPD is Pharmaceutical Products  
16 Division.

17 Q. You will note that there are some lines  
18 on this document -- first there is a list of  
19 compounds on the left-hand side. Do you see that?

20 A. Yes.

21 Q. And you see that there are then numbers  
22 under various years running out to 2011. Do you  
23 see that?

24 A. Yes.